

HOUSE BILL No. 6420

September 8, 2010, Introduced by Rep. Calley and referred to the Committee on Tax Policy.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 27a (MCL 211.27a), as amended by 2008 PA 506.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 27a. (1) Except as otherwise provided in this section,
2 property shall be assessed at 50% of its true cash value under
3 section 3 of article IX of the state constitution of 1963.

4 (2) Except as otherwise provided in subsection (3), for taxes
5 levied in 1995 and for each year after 1995, the taxable value of
6 each parcel of property is the lesser of the following:

7 (a) The property's taxable value in the immediately preceding
8 year minus any losses, multiplied by the lesser of 1.05 or the
9 inflation rate, plus all additions. For taxes levied in 1995, the

1 property's taxable value in the immediately preceding year is the
2 property's state equalized valuation in 1994.

3 (b) The property's current state equalized valuation.

4 (3) Upon a transfer of ownership of property after 1994, the
5 property's taxable value for the calendar year following the year
6 of the transfer is the property's state equalized valuation for the
7 calendar year following the transfer.

8 (4) If the taxable value of property is adjusted under
9 subsection (3), a subsequent increase in the property's taxable
10 value is subject to the limitation set forth in subsection (2)
11 until a subsequent transfer of ownership occurs. If the taxable
12 value of property is adjusted under subsection (3) and the assessor
13 determines that there had not been a transfer of ownership, the
14 taxable value of the property shall be adjusted at the July or
15 December board of review. Notwithstanding the limitation provided
16 in section 53b(1) on the number of years for which a correction may
17 be made, the July or December board of review may adjust the
18 taxable value of property under this subsection for the current
19 year and for the 3 immediately preceding calendar years. A
20 corrected tax bill shall be issued for each tax year for which the
21 taxable value is adjusted by the local tax collecting unit if the
22 local tax collecting unit has possession of the tax roll or by the
23 county treasurer if the county has possession of the tax roll. For
24 purposes of section 53b, an adjustment under this subsection shall
25 be considered the correction of a clerical error.

26 (5) Assessment of property, as required in this section and
27 section 27, is inapplicable to the assessment of property subject

1 to the levy of ad valorem taxes within voted tax limitation
2 increases to pay principal and interest on limited tax bonds issued
3 by any governmental unit, including a county, township, community
4 college district, or school district, before January 1, 1964, if
5 the assessment required to be made under this act would be less
6 than the assessment as state equalized prevailing on the property
7 at the time of the issuance of the bonds. This inapplicability
8 shall continue until levy of taxes to pay principal and interest on
9 the bonds is no longer required. The assessment of property
10 required by this act shall be applicable for all other purposes.

11 (6) As used in this act, "transfer of ownership" means the
12 conveyance of title to or a present interest in property, including
13 the beneficial use of the property, the value of which is
14 substantially equal to the value of the fee interest. Transfer of
15 ownership of property includes, but is not limited to, the
16 following:

17 (a) A conveyance by deed.

18 (b) A conveyance by land contract. The taxable value of
19 property conveyed by a land contract executed after December 31,
20 1994 shall be adjusted under subsection (3) for the calendar year
21 following the year in which the contract is entered into and shall
22 not be subsequently adjusted under subsection (3) when the deed
23 conveying title to the property is recorded in the office of the
24 register of deeds in the county in which the property is located.

25 (c) A conveyance to a trust after December 31, 1994, except if
26 the settlor or the settlor's spouse, or both, conveys the property
27 to the trust and the sole present beneficiary or beneficiaries are

1 the settlor or the settlor's spouse, or both.

2 (d) A conveyance by distribution from a trust, except if the
3 distributee is the sole present beneficiary or the spouse of the
4 sole present beneficiary, or both.

5 (e) A change in the sole present beneficiary or beneficiaries
6 of a trust, except a change that adds or substitutes the spouse of
7 the sole present beneficiary.

8 (f) A conveyance by distribution under a will or by intestate
9 succession, except if the distributee is the decedent's spouse.

10 (g) A conveyance by lease if the total duration of the lease,
11 including the initial term and all options for renewal, is more
12 than 35 years or the lease grants the lessee a bargain purchase
13 option. As used in this subdivision, "bargain purchase option"
14 means the right to purchase the property at the termination of the
15 lease for not more than 80% of the property's projected true cash
16 value at the termination of the lease. After December 31, 1994, the
17 taxable value of property conveyed by a lease with a total duration
18 of more than 35 years or with a bargain purchase option shall be
19 adjusted under subsection (3) for the calendar year following the
20 year in which the lease is entered into. This subdivision does not
21 apply to personal property except buildings described in section
22 14(6) and personal property described in section 8(h), (i), and
23 (j). This subdivision does not apply to that portion of the
24 property not subject to the leasehold interest conveyed.

25 (h) A conveyance of an ownership interest in a corporation,
26 partnership, sole proprietorship, limited liability company,
27 limited liability partnership, or other legal entity if the

1 ownership interest conveyed is more than 50% of the corporation,
2 partnership, sole proprietorship, limited liability company,
3 limited liability partnership, or other legal entity. Unless
4 notification is provided under subsection (10), the corporation,
5 partnership, sole proprietorship, limited liability company,
6 limited liability partnership, or other legal entity shall notify
7 the assessing officer on a form provided by the state tax
8 commission not more than 45 days after a conveyance of an ownership
9 interest that constitutes a transfer of ownership under this
10 subdivision.

11 ~~—— (i) A transfer of property held as a tenancy in common, except~~
12 ~~that portion of the property not subject to the ownership interest~~
13 ~~conveyed.~~

14 (I) ~~(j)~~ A conveyance of an ownership interest in a cooperative
15 housing corporation, except that portion of the property not
16 subject to the ownership interest conveyed.

17 (7) Transfer of ownership does not include the following:

18 (a) The transfer of property from 1 spouse to the other spouse
19 or from a decedent to a surviving spouse.

20 (b) A transfer from a husband, a wife, or a husband and wife
21 creating or disjoining a tenancy by the entirety in the grantors
22 or the grantor and his or her spouse.

23 (c) A transfer of that portion of property subject to a life
24 estate or life lease retained by the transferor, until expiration
25 or termination of the life estate or life lease. That portion of
26 property transferred that is not subject to a life lease shall be
27 adjusted under subsection (3).

1 (d) A transfer through foreclosure or forfeiture of a recorded
2 instrument under chapter 31, 32, or 57 of the revised judicature
3 act of 1961, 1961 PA 236, MCL 600.3101 to 600.3285 and MCL 600.5701
4 to 600.5759, or through deed or conveyance in lieu of a foreclosure
5 or forfeiture, until the mortgagee or land contract vendor
6 subsequently transfers the property. If a mortgagee does not
7 transfer the property within 1 year of the expiration of any
8 applicable redemption period, the property shall be adjusted under
9 subsection (3).

10 (e) A transfer by redemption by the person to whom taxes are
11 assessed of property previously sold for delinquent taxes.

12 (f) A conveyance to a trust if the settlor or the settlor's
13 spouse, or both, conveys the property to the trust and the sole
14 present beneficiary of the trust is the settlor or the settlor's
15 spouse, or both.

16 (g) A transfer pursuant to a judgment or order of a court of
17 record making or ordering a transfer, unless a specific monetary
18 consideration is specified or ordered by the court for the
19 transfer.

20 (h) A transfer creating or terminating a joint tenancy between
21 2 or more persons if at least 1 of the persons was an original
22 owner of the property before the joint tenancy was initially
23 created and, if the property is held as a joint tenancy at the time
24 of conveyance, at least 1 of the persons was a joint tenant when
25 the joint tenancy was initially created and that person has
26 remained a joint tenant since the joint tenancy was initially
27 created. A joint owner at the time of the last transfer of

1 ownership of the property is an original owner of the property. For
2 purposes of this subdivision, a person is an original owner of
3 property owned by that person's spouse. **AS USED IN THIS SECTION,**
4 **JOINT TENANCY INCLUDES TENANCY IN COMMON.**

5 (i) A transfer for security or an assignment or discharge of a
6 security interest.

7 (j) A transfer of real property or other ownership interests
8 among members of an affiliated group. As used in this subsection,
9 "affiliated group" means 1 or more corporations connected by stock
10 ownership to a common parent corporation. Upon request by the state
11 tax commission, a corporation shall furnish proof within 45 days
12 that a transfer meets the requirements of this subdivision. A
13 corporation that fails to comply with a request by the state tax
14 commission under this subdivision is subject to a fine of \$200.00.

15 (k) Normal public trading of shares of stock or other
16 ownership interests that, over any period of time, cumulatively
17 represent more than 50% of the total ownership interest in a
18 corporation or other legal entity and are traded in multiple
19 transactions involving unrelated individuals, institutions, or
20 other legal entities.

21 (l) A transfer of real property or other ownership interests
22 among corporations, partnerships, limited liability companies,
23 limited liability partnerships, or other legal entities if the
24 entities involved are commonly controlled. Upon request by the
25 state tax commission, a corporation, partnership, limited liability
26 company, limited liability partnership, or other legal entity shall
27 furnish proof within 45 days that a transfer meets the requirements

1 of this subdivision. A corporation, partnership, limited liability
2 company, limited liability partnership, or other legal entity that
3 fails to comply with a request by the state tax commission under
4 this subdivision is subject to a fine of \$200.00.

5 (m) A direct or indirect transfer of real property or other
6 ownership interests resulting from a transaction that qualifies as
7 a tax-free reorganization under section 368 of the internal revenue
8 code, 26 USC 368. Upon request by the state tax commission, a
9 property owner shall furnish proof within 45 days that a transfer
10 meets the requirements of this subdivision. A property owner who
11 fails to comply with a request by the state tax commission under
12 this subdivision is subject to a fine of \$200.00.

13 (n) A transfer of qualified agricultural property, if the
14 person to whom the qualified agricultural property is transferred
15 files an affidavit with the assessor of the local tax collecting
16 unit in which the qualified agricultural property is located and
17 with the register of deeds for the county in which the qualified
18 agricultural property is located attesting that the qualified
19 agricultural property shall remain qualified agricultural property.
20 The affidavit under this subdivision shall be in a form prescribed
21 by the department of treasury. An owner of qualified agricultural
22 property shall inform a prospective buyer of that qualified
23 agricultural property that the qualified agricultural property is
24 subject to the recapture tax provided in the agricultural property
25 recapture act, 2000 PA 261, MCL 211.1001 to 211.1007, if the
26 qualified agricultural property is converted by a change in use. If
27 property ceases to be qualified agricultural property at any time

1 after being transferred, all of the following shall occur:

2 (i) The taxable value of that property shall be adjusted under
3 subsection (3) as of the December 31 in the year that the property
4 ceases to be qualified agricultural property.

5 (ii) The property is subject to the recapture tax provided for
6 under the agricultural property recapture act, 2000 PA 261, MCL
7 211.1001 to 211.1007.

8 (o) A transfer of qualified forest property, if the person to
9 whom the qualified forest property is transferred files an
10 affidavit with the assessor of the local tax collecting unit in
11 which the qualified forest property is located and with the
12 register of deeds for the county in which the qualified forest
13 property is located attesting that the qualified forest property
14 shall remain qualified forest property. The affidavit under this
15 subdivision shall be in a form prescribed by the department of
16 treasury. An owner of qualified forest property shall inform a
17 prospective buyer of that qualified forest property that the
18 qualified forest property is subject to the recapture tax provided
19 in the qualified forest property recapture tax act, 2006 PA 379,
20 MCL 211.1031 to 211.1036, if the qualified forest property is
21 converted by a change in use. If property ceases to be qualified
22 forest property at any time after being transferred, all of the
23 following shall occur:

24 (i) The taxable value of that property shall be adjusted under
25 subsection (3) as of the December 31 in the year that the property
26 ceases to be qualified forest property.

27 (ii) The property is subject to the recapture tax provided for

1 under the qualified forest property recapture tax act, 2006 PA 379,
2 MCL 211.1031 to 211.1036.

3 (p) Beginning on the effective date of the amendatory act that
4 added this subdivision, a transfer of land, but not buildings or
5 structures located on the land, which meets 1 or more of the
6 following requirements:

7 (i) The land is subject to a conservation easement under
8 subpart 11 of part 21 of the natural resources and environmental
9 protection act, 1994 PA 451, MCL 324.2140 to 324.2144. As used in
10 this subparagraph, "conservation easement" means that term as
11 defined in section 2140 of the natural resources and environmental
12 protection act, 1994 PA 451, MCL 324.2140.

13 (ii) A transfer of ownership of the land or a transfer of an
14 interest in the land is eligible for a deduction as a qualified
15 conservation contribution under section 170(h) of the internal
16 revenue code, 26 USC 170.

17 (q) A transfer of real property or other ownership interests
18 resulting from a consolidation or merger of a domestic nonprofit
19 corporation that is a boy or girl scout or camp fire girls
20 organization, a 4-H club or foundation, a young men's Christian
21 association, or a young women's Christian association and at least
22 50% of the members of that organization or association are
23 residents of this state.

24 (8) If all of the following conditions are satisfied, the
25 local tax collecting unit shall revise the taxable value of
26 qualified agricultural property taxable on the tax roll in the
27 possession of that local tax collecting unit to the taxable value

1 that qualified agricultural property would have had if there had
2 been no transfer of ownership of that qualified agricultural
3 property since December 31, 1999 and there had been no adjustment
4 of that qualified agricultural property's taxable value under
5 subsection (3) since December 31, 1999:

6 (a) The qualified agricultural property was qualified
7 agricultural property for taxes levied in 1999 and each year after
8 1999.

9 (b) The owner of the qualified agricultural property files an
10 affidavit with the assessor of the local tax collecting unit under
11 subsection (7)(n).

12 (9) If the taxable value of qualified agricultural property is
13 adjusted under subsection (8), the owner of that qualified
14 agricultural property shall not be entitled to a refund for any
15 property taxes collected under this act on that qualified
16 agricultural property before the adjustment under subsection (8).

17 (10) The register of deeds of the county where deeds or other
18 title documents are recorded shall notify the assessing officer of
19 the appropriate local taxing unit not less than once each month of
20 any recorded transaction involving the ownership of property and
21 shall make any recorded deeds or other title documents available to
22 that county's tax or equalization department. Unless notification
23 is provided under subsection (6), the buyer, grantee, or other
24 transferee of the property shall notify the appropriate assessing
25 office in the local unit of government in which the property is
26 located of the transfer of ownership of the property within 45 days
27 of the transfer of ownership, on a form prescribed by the state tax

1 commission that states the parties to the transfer, the date of the
2 transfer, the actual consideration for the transfer, and the
3 property's parcel identification number or legal description. Forms
4 filed in the assessing office of a local unit of government under
5 this subsection shall be made available to the county tax or
6 equalization department for the county in which that local unit of
7 government is located. This subsection does not apply to personal
8 property except buildings described in section 14(6) and personal
9 property described in section 8(h), (i), and (j).

10 (11) As used in this section:

11 (a) "Additions" means that term as defined in section 34d.

12 (b) "Beneficial use" means the right to possession, use, and
13 enjoyment of property, limited only by encumbrances, easements, and
14 restrictions of record.

15 (c) "Converted by a change in use" means that term as defined
16 in the agricultural property recapture act, 2000 PA 261, MCL
17 211.1001 to 211.1007.

18 (d) "Inflation rate" means that term as defined in section
19 34d.

20 (e) "Losses" means that term as defined in section 34d.

21 (f) "Qualified agricultural property" means that term as
22 defined in section 7dd.

23 (g) "Qualified forest property" means that term as defined in
24 section 7jj[1].

25 Enacting section 1. This amendatory act is retroactive and is
26 effective for taxes levied after December 31, 2008.